

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

Cherika Fryer,

Plaintiff,

v.

Portfolio Recovery Associates,
LLC.,

Defendant.

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Civil Action File No.:

**COMPLAINT WITH
JURY TRIAL DEMAND**

PRELIMINARY STATEMENT

This action for damages is based upon the Defendant's overt and intentional, unlawful conduct in the furtherance of its efforts to collect a consumer debt. The Defendant's conduct is in violation of the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. 1692 *et seq.*

PARTIES

1. Plaintiff, Cherika Fryer, is a natural person who resides in Burke County, Georgia.

2. Defendant, Defendant, Portfolio Recovery Associates, LLC is a limited liability company formed under the laws of the State of Virginia and not registered

to do business in Georgia. Defendant may be served with process via its registered agent, Corporation Service Company, 100 Shockoe Slip, 2nd Floor, Richmond, VA 23219.

JURISDICTION AND VENUE

3. This Court has federal question jurisdiction over Plaintiff's Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 *et seq.*, claims pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1692k(d).

4. This Court has personal jurisdiction over Defendant because, *inter alia*, Defendants frequently and routinely conducts business in the State of Georgia, including the conduct complained of herein.

5. Pursuant to 28 U.S.C. § 1391, venue is proper in the Northern District of Georgia because a substantial part of the events or omissions giving rise to the claims occurred in this district.

6. Pursuant to LR 3.1B(3), venue is proper in the Atlanta Division because the events transpired in the Atlanta Division.

FACTUAL ALLEGATIONS

7. Plaintiff is a natural person allegedly obligated to pay consumer debts arising out of a credit card account and is therefore, a "consumer", as that term is defined by 15 U.S.C. § 1692a(3).

8. Defendant is a collection agency specializing in the collection of consumer debt.

9. Defendant regularly collects, or attempts to collect, directly or indirectly, debts owed or due, or asserted to be owed or due, to a third party.

10. Defendant uses interstate commerce and/or mail in its business in the collection of consumer debts.

11. Defendant is, therefore, a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6).

12. For the last several months, the Plaintiff has been receiving collection calls and written communications from a number of parties, including the Defendant.

13. Plaintiff spoke via telephone to Defendant on or about January 31, 2025.

14. During the phone call, Plaintiff advised Defendant that she did not believe she was liable for the amount of debt they were attempting to collect.

15. Plaintiff clearly disputed the accounts to Defendant’s representative during the phone call.

16. Defendant’s representative acknowledged her dispute.

17. Yet, Plaintiff accessed Plaintiff’s Trans Union credit report on March 17, 2025 and Defendant had not marked the accounts as disputed.

18. Defendant's actions caused Plaintiff anxiety, annoyance, and worry.

19. Defendant's failure to mark Plaintiff's accounts as disputed caused inaccurate information about Plaintiff's credit history to be reported to third parties.

INJURIES-IN-FACT

20. The FDCPA provides consumers with "statutorily-created rights to be free from 'being subjected to false, deceptive, unfair, or unconscionable means to collect a debt.'" *McCamis v. Servis One, Inc.*, No. 8:16-CV-1130-T-30AEP, 2016 U.S. Dist. LEXIS 99492 (M.D. Fla. July 29, 2016); *Church v. Accretive Health, Inc.*, 654 Fed. Appx. 990, 2016 U.S. App. LEXIS 12414, 2016 WL 3611543 (11th Cir. 2016).

21. An injury-in-fact sufficient to satisfy Article III standing requirements "may exist solely by virtue of statutes creating legal rights, the invasion of which creates standing." *Church*, at 993, quoting *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 373, 102 S. Ct. 1114, 71 L. Ed. 2d 214 (1982).

22. Violation of statutory rights are not a "hypothetical or uncertain" injury, but one "that Congress has elevated to the status of a legally cognizable injury through the FDCPA." *McCamis*, at 4, citing *Church*, at 3.

23. Defendant is subjecting Plaintiff to false, deceptive, unfair, and unconscionable means to collect the debt.

24. Defendant's acts and omissions caused particularized harm to the Plaintiff in that she suffered worry and anxiety that inaccurate credit information about her would be reported to third parties, and also that she took time to discuss this debt with counsel.

25. Accordingly, through the suffering of actual damages and a violation of Plaintiffs' statutorily created rights under the FDCPA, Plaintiff has suffered an injury-in-fact sufficient to establish Article III standing

DAMAGES

26. As a result of the Defendant's actions and/or omissions, Plaintiff has suffered actual damages, including but not limited to the following:

- a.) Being subjected to false, deceptive, unfair, and unconscionable debt collection practices;
- b.) Uncompensated time expended away from work and/or activities of daily living, to confer with counsel regarding the Defendant's collection efforts;
- c.) Anxiety and worry due to concerns that she would continue to have inaccurate credit information about her reported to third parties.

CAUSE OF ACTION

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

15 U.S.C. § 1692 *et seq.*

27. Plaintiff incorporates by reference paragraphs 1 through 27 as though fully stated herein.

Violations of 15 U.S.C. § 1692e and subparts

28. 32. 15 U.S.C. § 1692e specifically prohibits the use of any false, deceptive, or misleading representations or means in connection with the collection of any debt.

29. The use of “or” in § 1692e means a representation violates the FDCPA if it is false or deceptive or misleading. *Bourff v. Rubin Lublin, LLC*, 674 F.3d 1238, 1241 (11th Cir. 2012).

30. The standard in determining the nature of any such representation is that of the “least sophisticated consumer.” Its purpose is to protect “naive consumers” with a minimal understanding of personal finance and debt collection. *LeBlanc v. Unifund CCR Partners*, 601 F.3d 1185, 1194 (11th Cir. 2010).

31. Moreover, the least sophisticated consumer is not to be held to the same standard as a reasonably prudent consumer. The least sophisticated consumer, though not unreasonable, is “ignorant” and “unthinking,” “gullible,” and of “below-average sophistication or intelligence,” *Pinson v. JPMorgan Chase Bank, Nat’l Ass’n*, No. 16-17107, 2019 U.S. App. LEXIS 33662, at 12-13 (11th Cir. Nov. 12, 2019), quoting *Clomon v. Jackson*, 988 F.2d 1314, 1318 (2d Cir. 1993)

32. A false representation in connection with the collection of a debt is sufficient to violate the FDCPA, even if it is not alleged or proven to be misleading or deceptive.

33. Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed is a false representation in connection with the collection of a debt. 15 U.S.C. § 1692e(8).

34. Defendant's communications were in violation of 15 U.S.C. §§ 1692e, e(5), e(8) and e(10) among others.

35. As a result of Defendant's violations of the FDCPA, Defendant is liable to Plaintiffs for actual damages as described herein, statutory damages in the amount of \$1,000.00, costs of this action and reasonable attorney's fees as determined by the Court as mandated by 15 U.S.C. § 1692k.

TRIAL BY JURY

36. Plaintiff is entitled to and hereby requests a trial by jury.

WHEREFORE, Plaintiff prays that judgment be entered against Defendant for:

- a.) Plaintiff's actual damages;
- b.) Statutory damages pursuant to 15 U.S.C. § 1692k;

- c.) Reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k; and
- d.) Such other and further relief as may be just and proper.

Respectfully submitted this 25th day of March, 2025.

BERRY & ASSOCIATES

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